

III. REMARKS

1. Claims 1, 18, 21, 22-24, 25 and 28 are amended.
2. Claims 1, 2, 18, 21, 25 and 28 are not anticipated by Sugirtharaj (US Patent No. 6678526) ("Sug") under 35 USC §102(e).

Claims 1, 18, 21, 25 and 28 each recite that a second service request is transmitted from the mobile station to a second network in response to the message received from the first network, and that the requested service is received from the second network when the data transmission service is not providable substantially in accordance with at least one of the service request and the terminal is not reachable via the first network. This is not disclosed or suggested by Sug.

Sug relates to a method for reserving a communication channel in a mobile telecommunication network. After a mobile station's initial attempt to place a call fails, because of congestion in a first network, for example, the mobile station requests reservation of a communication channel. Preferably, the reservation request is transmitted via a second network, different from the network used for the initial call attempt. In response to the request, an identification of the mobile station is placed in **a queue of the first network** for access to a communication channel. **Once a communication channel becomes available in the first network, that channel is reserved for use by the mobile station.** (See e.g. Abstract). However, what is not disclosed or suggested by Sug is that **the second network provides the requested service** as recited by Applicant in the claims. Sug only discloses that the channel in the first network will be reserved for use by the mobile station. Therefore, Sug does not disclose or suggest each limitation recited by Applicant in the claims. Since each and every element is not disclosed or suggested, a *prima facie* case of anticipation is not and cannot be established.

3. Claims 3 and 19 are not unpatentable over Sug in view of Roberts et al. (US Patent No. 7181201) ("Roberts") under 35 USC §103(a) at least by reason of their respective dependencies. Furthermore, the combination of Roberts with Sug does not disclose or suggest each feature recited in the claims. As noted above, Sug does not disclose or suggest at least the feature that a second service request is transmitted from the mobile station to a second network in response to the message received from the first network, and that the requested service is received from the second network when the data transmission service is not providable substantially in accordance with at least one of the service request and the terminal is not reachable via the first network. Roberts does not overcome at least this deficiency.

Roberts relates to routing a call to called party's landline or wireless communication unit (Abstract). In Roberts, the wireless and landline communication networks comprise computer usable medium that determines availability of the called party and routes the call to the caller party's landline communication unit or to the caller party's wireless communication unit (Column 2, lines 33-37, 46-58). There is no disclosure or suggestion in Roberts related to a second service request that is transmitted from the mobile station to a second network in response to the message received from the first network, and that the requested service is received from the second network when the data transmission service is not providable substantially in accordance with at least one of the service request and the terminal is not reachable via the first network. Thus, the combination of Sug and Roberts does not disclose or suggest each element recited by Applicant in the claim and a *prima facie* case of obviousness is not established.

4. Claims 5-9, 20, 22-24 and 27 are not unpatentable over Sug in view of McCanne et al. (US Patent No. 6901445)("McCanne") under 35 USC §103(a) at least by reason of their respective dependencies. Furthermore, the combination of McCanne with Sug does not disclose or suggest each feature recited in the claims. As noted above, Sug does not disclose or suggest at least the feature that a second service request is transmitted from the mobile station to a second network in response to the message received from the first network, and that the requested service is received from the second network when

the data transmission service is not providable substantially in accordance with at least one of the service request and the terminal is not reachable via the first network. McCanne does not overcome at least this deficiency.

McCanne relates to redirecting system for service-to-client attachment in a virtual overlay distribution system (Abstract). In McCanne, redirection is done inside one network where the ARN selects a candidate service node from its associated service cluster (Column 16, lines 48 - 62 and lines 8 - 12). What is not disclosed or suggested by the combination of Sug and McCanne is that a second service request is transmitted from the mobile station to a second network in response to the message received from the first network, and that the requested service is received from the second network when the data transmission service is not providable substantially in accordance with at least one of the service request and the terminal is not reachable via the first network. Therefore, claims 5-9, 20, 22-24 and 27 are not unpatentable over the combination of Sug and McCanne.

5. Claims 10 and 11 are not unpatentable over Sug in view of Sainton et al. (US Patent No. RE38787)("Sainton") under 35 USC §103(a) at least by reason of their respective dependencies. Furthermore, the combination of Sainton with Sug does not disclose or suggest each feature recited in the claims. As noted above, Sug does not disclose or suggest at least the feature that a second service request is transmitted from the mobile station to a second network in response to the message received from the first network, and that the requested service is received from the second network when the data transmission service is not providable substantially in accordance with at least one of the service request and the terminal is not reachable via the first network. Sainton does not overcome at least this deficiency.

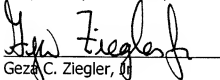
Sainton is directed to a radio frequency management system for reallocation of radio spectrum among a plurality of wireless communication networks using differing radio frequency modulation protocols and differing radio frequencies to communicate with a plurality of frequency and protocol agile portable radio devices each of which is

responsive to portable radio device control signals to change its operating frequency and modulation protocol. There is no disclosure in Sainton, or the combination of Sug and Sainton related to a second service request is transmitted from the mobile station to a second network in response to the message received from the first network, and that the requested service is received from the second network when the data transmission service is not providable substantially in accordance with at least one of the service request and the terminal is not reachable via the first network. Thus, claims 10 and 11 are not unpatentable over the combination of Sug and Sainton.

For all of the above reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record, and are in proper form for allowance. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment any additional fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,



Geza C. Ziegler, Jr.
Reg. No. 44,004

10 Jun 2 2009
Date

Perman & Green, LLP
425 Post Road
Fairfield, CT 06824
(203) 259-1800
Customer No.: 2512